

ATTORNEY GENERAL[61]

Adopted and Filed

Pursuant to the authority of Iowa Code section 809A.25, the Attorney General hereby amends Chapter 33, "Forfeited Property," Iowa Administrative Code.

Forfeited property may be used by the Attorney General ("the Department") in the enforcement of the criminal law. The Department may give forfeited property to any other law enforcement agency within the state if, in the opinion of the Attorney General, it will enhance law enforcement within the state. (See Iowa Code section 809A.17.)

The amendments decrease the amount of forfeited funds retained by the Department from 20 percent to 10 percent and increase the amount of forfeited funds given to local law enforcement agencies from 80 percent to 90 percent. The amendments also decrease from 20 percent to 10 percent the amount of proceeds from the sale of forfeited real estate retained by the Department.

The amendments correspond with the provisions of Iowa Code section 809A.17(5). The amendments remove a requirement that law enforcement agencies notify the Department whenever they seize property for forfeiture, except seizure of real property. The amendments also require a seizing agency to apply within ten days for a certificate of title or a junking certificate for a forfeited vehicle which has been transferred to the agency.

The amendments were published under Notice of Intended Action in the Iowa Administrative Bulletin on March 20, 2013, as **ARC 0646C**.

The proposed amendments were reviewed at the Administrative Rules Review Committee meeting held on April 12, 2013. There were no comments in opposition to the amendments. It was noted that the amendments regarding the sharing of funds will revise the rule to correspond with the provisions of Iowa Code section 809A.17(5) and that the elimination of requiring notice of seizures, except for real estate seizures, reduces unnecessary bureaucracy and costs to local law enforcement agencies. The amendment regarding the requirement that law enforcement agencies apply for a new certificate of title or junking certificate of title for forfeited vehicles within ten days imposes no undue burden and ensures that ownership of such vehicles is promptly transferred from the State of Iowa to the possessory agency.

These amendments are identical to those published under Notice of Intended Action.

These amendments are not subject to waiver.

After analysis and review of this rule making, no impact on jobs has been found.

These amendments are intended to implement Iowa Code chapter 809A.

These amendments will become effective July 3, 2013.

The following amendments are adopted.

ITEM 1. Amend subrule 33.3(1) as follows:

33.3(1) An agency which seizes real property for forfeiture must notify the department within ten days of the seizure. Notice shall include the identity of the party from whom the property was seized, the date and county of seizure, and an inventory a legal description of the property seized for forfeiture.

ITEM 2. Amend paragraph **33.4(4)"e"** as follows:

e. The department will retain ~~20~~ 10 percent of the gross sale price of the real property. The balance of the proceeds, ~~80~~ 90 percent, will be given to the seizing agency for its use or for division among law enforcement agencies and prosecutors pursuant to agreement.

ITEM 3. Adopt the following new paragraph **33.4(6)"d"**:

d. The seizing agency shall, within ten days of receipt of the transferred title, send to the Iowa department of transportation an application for certificate of title or a junking certificate for the vehicle.

ITEM 4. Amend subrule 33.4(7) as follows:

33.4(7) *Cash.*

a. The department will retain ~~20~~ 10 percent of forfeited cash. The balance of forfeited cash, ~~80~~ 90 percent, will be given to the seizing agency for its use or for division among law enforcement agencies and prosecutors pursuant to agreement.

b. In the event of a cash forfeiture in excess of \$400,000, amounts over \$400,000 shall be apportioned as follows: ~~40~~ 45 percent to the seizing agency or agencies; ~~40~~ 45 percent to other law enforcement agencies within the region; and ~~20~~ 10 percent to be retained by the department.

[Filed 5/6/13, effective 7/3/13]

[Published 5/29/13]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 5/29/13.